The Planning Inspectorate

Costs Decision

Site visit made on 5 March 2012

by N M McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 May 2012

Costs application in relation to Appeal Ref: APP/H1033/A/11/2162203 Land at Shallcross Hall Farm, Shallcross Road, Whaley Bridge, High Peak, SK23 7EY

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Alan Sidebotham for a full award of costs against High Peak Borough Council.
- The appeal was made against the failure to determine an application within the prescribed period for partial demolition of non-approved existing building and reconstruction.

Decision

1. The application for an award of costs is refused.

Reasons

1. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

2. The Council did not determine the application submitted by the appellant because it considered it to be invalid, on the basis that an enforcement notice had been served on the development the subject of the application. However, the Council did not provide notice to the appellant of its decision not to register the application. The Council also considered the plans submitted with the application to be inaccurate and misleading, but did not communicate this to the appellant either. In this respect, I find the Council's behaviour to have been unreasonable.

3. Having said that, for an application for costs to succeed, there has to have been some unnecessary or wasted expense. The Council's case presented during the appeal process, is firmly based on the adopted development plan for the area, leaves me in little doubt that, had the application been determined, it would have been refused. Such a refusal would correspond with the planning history associated with the site, whereby the Council has also refused previous applications on the site. Similarly, the appellant's history of consistently appealing refusals by the Council, leaves me in little doubt that the appellant would have appealed such a refusal. This is not altered by the appellant's assertion that the proposed development should have been permitted, "as it is

in line with the development plan," as the outcome of the appeal has demonstrated this not to be the case.

4. Taking the above into account, I have no reason to suppose that the appellant would not have been involved in the expense of an appeal had the Council determined the application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated in this case, and an award of costs is not justified.

N M McGurk

INSPECTOR